

# INTER CLASS MOOT COURT COMPETITION- 2018

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## **Kaseem and Ors. V. Union of Magadh**

**W.P. \_\_/2018**

1. Magadh is a sub-continental country, in the South-eastern region of Urasia. Magadh is the largest growing economy and also the second most populous country in the World. It shares its borders with Gandhar on the west and north, Shonar Bangla, Kagyu and Burma on the east, and is surrounded by major water bodies on the rest of the sides. It is also the largest democracy of the world and provides basic amenities of life to all the Refugees seeking shelter, fleeing from adverse situations.

2. The state of Kamakhya, which is in the north eastern part of the country, shares its border with two foreign states being Kagyu and Shonar Bangla. In the year 1971, the Shonar Bangla liberation war broke out between East Gandhar and West Gandhar. Around the same time, there was a huge influx of refugees into Magadh, most in the states of Kamakhya and Paschim Bang, fleeing oppression and evils of the war.

3. The Government of Kamakhya, in order to have a tab of refugees and illegal immigrants, started releasing lists under the National Register of Citizens (NRC). A number of original Magadhians also fell prey/victim to this. The citizens who were suspected to be foreign citizens were arrested by the Kamakhya Police- Border Wing and their cases were sent for inquiry to the Jurisdictional Foreign Tribunals. On the basis of these inquiries made, it was decided about the names that were to be added in the National Register of Citizens. Accordingly, the unlisted persons were to be deported back to Shonar Bangla. However as no Repatriation Treaty existed between Magadh and Shonar Bangla, such unlisted persons were merely detained in detention camps.

4. In the village of Nagaon in Kamakhya, Kaseem, his wife and four children except Halima were listed in the NRC. As a consequence, Halima was declared a foreigner in 2008 and detained in 2009. The tribunal in 2008 had declared her to be a foreigner *ex parte* without taking evidence from Kaseem which would have disproved the State's allegations.

5. The case went on to the High Court of Kamakhya where a single judge bench was not convinced with the documents produced and upheld the Tribunal's order in 2013. Amongst other documents, a certificate from the Village Panchayat of Nagaon was submitted, stating that she was Kaseem's daughter. The High Court did not entertain a second appeal in 2015 on ground of delay.

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6. The reason behind the state taking this step was in order to protect itself and its citizens from illegal immigrants, who with them also bring a number of anti-social elements such as terrorism. They also pose a threat to the culture and heritage of the ancient land of Kamakhya. The state is also working on a Standard Operations Procedure (SOP) to be adopted for this category of citizens, and how the Appeal is to be filed in case of non-mention of name in NRC List. The final list is not yet released and that will be done only after the revised version of SOP is adopted.

7. It has been more than 9 years now, Halima continues to be in Kokrajhar Central Jail which also houses a makeshift detention centre for women, one of the 6 detention centres in Kamakhya. More than 1000 women are held up in this detention centre alone suffering from a fate similar to that of Halima.

8. Aggrieved, family members of these women filed a joint petition before the Supreme Court of Magadh challenging the detainment of these women on mere suspicion. It is contended by them that there is a violation of Article 22 of the Constitution of Magadh and also a gross violation of Right to Life under Article 21 of the Constitution of Magadh.

9. The petition is up for hearing before the Supreme Court of Magadh with the following contentions to be decided:

- i. Whether the Petition is maintainable?
- ii. Whether there is a violation of Fundamental Rights under the Constitution of Magadh?
- iii. Whether the Standard Operations Procedure can be given priority over Article 21 of the Constitution of Magadh?

The laws of Magadh are in parimateria with that of India.

Participants are free to add any further contentions pertaining to the case.